

SANDLER REIFF

SANDLER REIFF LAMB
ROSENSTEIN & BIRKENSTOCK, P.C.

1025 Vermont Ave NW, Suite 300
Washington, DC 20005
www.sandlerreiff.com
T: 202-479-1111
F: 202-479-1115

December 11, 2014

Via E-Mail and First Class Mail

Federal Election Commission
Office of Complaints Examination and Legal Administration
Attn: Frankie Hampton, Paralegal
999 E Street, N.W.
Washington, D.C. 20463
fhampton@fec.gov

cc: Jeff Jordan, Esq.
Assistant General Counsel

Re: MUR 6882

Mr. Hampton,

The undersigned represents Cain for Congress and Jeremy Fischer, in his official capacity as Treasurer for the committee ("Respondents"). We write to respond to the complaint submitted by David Sorensen on October 9, 2014. Cain for Congress was the authorized committee for Emily Cain, a candidate in Maine's Second Congressional District in 2014.

1. Introduction and Factual Analysis

In his complaint, Mr. Sorensen alleges that Cain for Congress disseminated a television advertisement titled "Truth", airing in early October of 2014. This advertisement contained a written and a spoken disclaimer.

While the disclaimer spoken by the candidate, Emily Cain, contained a statement that she approved the advertisement, this approval was not reproduced in the written disclaimer, which stated that the advertisement was "Paid for by Cain for Congress", but inadvertently omitted that it was approved by Emily Cain. A corrected version of the advertisement was sent to stations once this omission was discovered.

The FEC has continually dismissed complaints like Mr. Sorensen's, often unanimously, as long as the candidate has given the viewer notice that they have approved their advertisement. In this case, Emily Cain stated, in her spoken disclaimer, that she had approved the "Truth" advertisement. Mr. Sorensen even admits this fact in his sworn complaint.

RECEIVED
FEDERAL ELECTION
COMMISSION

2014 DEC 11 AM 8:30

CELA

1100440014-1

Given that the Respondents substantially complied with federal disclaimer requirements, we request that the FEC close the file on this complaint, and take no further enforcement action against the Respondents.

2. Mr. Sorensen's Complaint

Mr. Sorensen sets out one core allegation: that the "Truth" advertisement does not contain the precise written words "Approved by" the candidate. Mr. Sorensen admits in his complaint that the advertisement "contains Cain's oral statement of approval".¹

3. Respondents substantially complied with federal disclaimer requirements.

Respondents substantially complied with federal disclaimer requirements for candidate advertisements, and certainly gave viewers notice that Emily Cain approved the "Truth" advertisement.

The FEC's disclaimer requirements, found in 52 U.S.C. § 30120 (previously 2 U.S.C. § 441d) and 11 C.F.R. § 110.11 require that television advertisements authorized by candidates must "...include a statement that identifies the candidate and states that he or she has approved the communication. . .", both spoken and in writing.²

Prior to 2002, federal regulations only required that a candidate provide a written disclaimer in their advertisements, that stated who paid for the communication.³ After the passage of the Bipartisan Campaign Reform Act in 2002, additional disclosure provisions were added, commonly known as the "Stand by Your Ad" requirements. Compliance with these requirements have been a difficult task for many campaigns.

To that end, the FEC has previously allowed for "substantial compliance" with the candidate disclaimer requirements, looking to the spirit of this "Stand by Your Ad" requirement, opposed to requiring the precise written language in the statute and regulations.⁴

¹ Complaint of David Sorensen at 1 (October 9, 2014).

² 52 U.S.C. § 30120(d)(1)(B); 11 C.F.R. § 110.11(c)(3)(ii), (c)(3)(iii).

³ See 2 U.S.C. § 441d(a)(1) (version effective through November 5, 2002).

⁴ See MUR 6042 (Pat Roberts) (2009); MUR 5834 (Darcy Burner for Congress) (2007); MUR 5629 (Newberry for U.S. Congress) (2007); ADR 347/MUR 5727 (Howard Kaloogian and V. Eric Roach) (2006); MUR 5556 (Porter for Congress) (2006); see also MUR 6006 (Friends of Bruce Lunsford) (2009) (Commission voted 6-0 to dismiss a complaint regarding required disclaimers, because the candidate complied with the spirit of the "Stand by Your Ad" requirements).

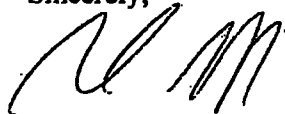
4. Conclusion

The FEC has continuously dismissed complaints that are identical to the complaint submitted by Mr. Sorensen. The omission of the "approved by" language in the written disclaimer was inadvertent, and was rectified after it was discovered.

Respondents substantially complied with the "Stand by Your Ad" disclaimer requirements found in 52 U.S.C. § 30120 and 11 C.F.R. 110.11, because Emily Cain spoke the required disclaimer. There can be no doubt that Cain stood by and approved her advertisement.

With this information in mind, we request that the FEC close the file on this complaint, and take no further enforcement action against Cain for Congress.

Sincerely,



Neil P. Reiff
David Mitrani

Counsel for Cain for Congress and Jeremy
Fischer, in his official capacity as Treasurer.

10044001